



MONTANA LEGISLATIVE BRANCH

Legislative Fiscal Division

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DATE: March 11, 2004

TO: Legislative Finance Committee

FROM: Harry Freebourn

RE: District Courts Statewide Assumption Project

PURPOSE

The purpose of this report is to inform the Legislative Finance Committee (LFC) of potential cost overruns facing the Judicial Branch of state government in the District Courts Statewide Assumption Program. This report also provides an update on the Public Defender Study as well as a discussion of a potential shortfall in the collection of state special funds that are used to pay for the Court Information Technology Program. The committee will be updated on these subjects at future meetings as additional information is gathered and analyzed.

DISTRICT COURTS STATEWIDE ASSUMPTION PROJECT

Background

The 57th Legislature approved Senate Bill 176 that mandated state funding of Montana district courts with general fund revenue beginning July 1, 2002 that was previously funded by the counties. The Judiciary assumed the responsibility for oversight and administration of 22 judicial districts with approximately 245 FTE. The bill made district courts part of the Judicial Branch of state government. The assumption of district courts did not include the clerks of court and public defenders, although costs to pay for indigent defense were assumed by the state. Costs of the district courts statewide assumption are divided into fixed and variable. Section 61 of Senate Bill 176 describes fixed cost components as those that are not variable with caseload including salaries and related operating costs. Variable cost components are those costs that are variable with caseload including juror and witness fees and expenses and indigent defense costs. Indigent defense costs comprise over 80 percent of total variable costs.

Current Situation

Based upon current and projected expenditures through the remainder of the year, the Judiciary predicts that it will experience approximately \$3.4 million in cost overruns during fiscal 2004. The fixed cost area of personal services is predicted to have a cost overrun of \$0.5 million. Variable costs are predicted to have a cost overrun of \$2.9 million. The Judiciary expects that it

may be able to partially mitigate this overrun in two ways. First, in the fixed cost area of operating costs, the Judiciary has \$0.5 million in funding authority that may be more appropriately classified as personal services. However, the Judiciary is not yet certain about making this reclassification. Second, the Judiciary expects to use \$1 million in 2003 biennium general fund reversions as approved in a language appropriation for the 2005 biennium. However, the use of reversion amounts is a short-term solution to cover part of the shortfall.

If these shortfalls are not permanently mitigated, it is reasonable to expect that they will also appear in similar magnitudes in fiscal 2005. Therefore, the total potential overrun for the biennium is between \$4.8 million and \$6.8 million.

Reasons For the Cost Overruns

There are a number of potential factors that may be causing the cost overruns. The factors that are being researched by Legislative Fiscal Division (LFD) staff, include:

- The number of FTE
- The cost paid for personal services
- The price paid for attorney and evaluation services
- Growth trends in caseload

PUBLIC DEFENDER STUDY

The Law and Justice Committee is scheduled to hear a report on public defender issues on March 20, 2004. The Committee will consider whether it should develop legislation to centralize at the state level the management of public defender services, or whether to clarify current law and allow the Legislature to get a better idea of what is happening with district court costs (including indigent defense) since state assumption of nearly all of those costs in 2003. If the Committee decides to move forward with a state managed public defender system the state will most likely incur additional costs necessary to manage this function at the state level.

LFD staff are working with Legislative Services Division (LSD) Committee staff on fiscal issues associated with this study and will provide updates to the LFC as that committee's work progresses.

COURT INFORMATION TECHNOLOGY FUNDING

In accordance with 3-1-371, MCA, the Court Information Technology Program is funded with a \$10.00 surcharge imposed on certain court case filings and criminal convictions. The Information Technology Program consists of 14.0 FTE and the associated operating costs to manage this function.

The LFD currently estimates that the collection of this surcharge will be about \$650,000 behind budget for fiscal 2004. The reason for this shortfall is primarily due to an over optimistic budget forecast for the level of collection. The Court has slowed down the purchase and installation of hardware and software in the State's courts in an effort to bring expenditures in line with collections.